

Alaska Department of Environmental Conservation

And

Environmental Protection Agency

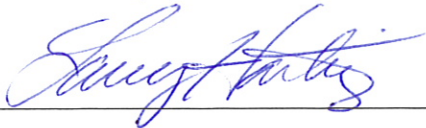
State Fiscal Year 2011

July 1, 2010 – June 30, 2011

This agreement constitutes the State of Alaska's relationship with the United States Environmental Protection Agency (EPA) under the National Environmental Performance Partnership System. The Alaska Department of Environmental Conservation (DEC) enters the agreement for the State of Alaska with EPA Region 10, for state fiscal year 2011 (July 1, 2010 – June 30, 2011).

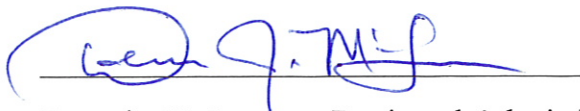
This Agreement describes the expected work and performance results for each of the agencies. The Performance Partnership Agreement [PPA] is an important tool that strengthens the protection of the environment by encouraging flexibility to focus on the activities that achieve the best environmental results consistent with the missions and authorities of each agency.

DATE:

August 11, 2010

Larry Hartig, Commissioner  
Alaska Department of Environmental Conservation

DATE:

8/17/10

Dennis McLerran, Regional Administrator  
U.S. Environmental Protection Agency, Region 10

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## **I. Introduction and Purpose**

The National Environmental Performance Partnership System is a framework designed to achieve better environmental results by focusing the capacities and resources of the Environmental Protection Agency and States to jointly address the most pressing environmental problems. Common goals, priorities, and strategies are based on information about environmental conditions, and progress is evaluated based on results actually achieved in the environment. Performance Partnership Agreements (PPA), through which EPA and states set priorities and design strategies, are intended to strengthen protection of the environment by focusing resources on agreed upon environment protection goals.

This State Fiscal Year (SFY) 2011 PPA describes the overlapping missions of DEC and EPA for protecting Alaska's environment. The agreement describes how each agency will work together to achieve joint priorities and performance expectations in order to address Alaska's most important environmental and public health protection issues.

- The purpose of the agreement is to establish mutual priorities and performance expectations for both agencies during SFY 2011.

This agreement includes specific commitments made by each agency regarding Alaska's most important environmental priorities for the period July 1, 2010 – June 30, 2011.

## **II. Missions**

DEC and EPA Region10 both share a common mission to protect Alaska's environment consistent with State and Federal law.

DEC Mission:

Protect human health and the environment.

EPA Region 10 Mission:

Protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

### **III. Agreement Coverage**

This Agreement is based on the National Environmental Performance Partnership System (NEPPS) and EPA's Office of Congressional and Intergovernmental Relations (OCIR) NEPPS National Program Guidance which allows states flexibility to address their highest environmental priorities and establish resource allocations based on those priorities. This Agreement includes DEC and EPA Region 10 environmental priorities that have been identified as areas of partnership for the two agencies. The guiding principles and concepts of this agreement apply to all DEC and EPA interactions even though this Agreement does not cover all DEC programs receiving EPA grant assistance.

In addition to this Agreement, the State of Alaska receives two Partnership Performance Grants [PPGs] which include specific workplan commitments for water quality programs, and radon and air quality programs. The purpose of the PPGs is to reduce the administrative burden by consolidating several grants into one and to increase the flexibility of DEC to move resources within the air and radon programs, and within the water quality programs, to meet Alaska's highest environmental needs.

As explained in the National Environmental Performance Partnership System National Guidance, "once funds are awarded in a PPG, the state can direct the funds as needed to achieve work plan commitments and does not need to account for funds in accordance with their original funding program sources." PPG expenditures should be focused on state priorities using funding methods and workplans developed by the state and approved by the EPA. At the end of the year, DEC is not expected under this agreement to account for how PPG funding has been allocated by the original funding program source.

### **IV. State of Alaska**

Alaska is different from the other EPA Region 10 states. Alaska is the nation's only arctic state, with environmental issues more common to Russia, Finland, Sweden, Norway, Greenland, and Canada than to other states. Alaska is also the largest ocean state in the country and its oceans include the North Pacific Ocean, Bering, Chukchi, and Beaufort Seas. Alaska has 33,904 miles of shoreline – twice the length of all the other states combined. The estimated tidal shoreline, including islands, inlets and shoreline to head of the tidewater is 47,300 miles. Alaska occupies 20% of the nation's land base, 40% of the nation's surface water, and contains half the nation's wetlands.

Alaska has vast proven and unexplored natural resources. Alaska oceans and coastal watersheds produce 25% of the nation's oil, over 50% of the nation's seafood, and minerals from several world-class mines including the world's largest operating zinc mine.

The unique regional qualities of Alaska's ocean and watershed resources are also reflected in their quality. Alaska's resources, for the most part, are healthy, productive, and relatively pollution-free. The EPA's most recent report on the condition of the nation's coast concludes that, "Alaska's coastal resources are generally in pristine condition. Concentrations of contaminants have been measured at levels significantly lower than those in the rest of the coastal United States."

Most of Alaska's communities are isolated, small, and can only be reached by air or water. There is no statewide power grid, so most Alaska communities depend on energy produced from individual community diesel generators. Alaska is also the home of 229 federally recognized tribes in Alaska – over 40 percent of the nation's total number of tribes.

Alaska's state resource and public health protection agencies are actively pursuing appropriate forums for coordinating with their federal agency counterparts on environmental and public health protection issues of mutual concern.

## **V. Priorities**

### **1. Climate Change**

Climate change is not just an environmental issue in Alaska. It is also a social, cultural, and economic issue important to all Alaskans. The impacts of climate change include coastal erosion and flooding, increased storm effects, sea ice retreat and permafrost melt. The villages of Shishmaref, Kivalina, and Newtok have already begun relocation plans. The U.S. Army Corps of Engineers has identified over 160 additional rural communities threatened by erosion. Natural systems are also being impacted by a warming environment and increased acidity of ocean waters, which in turn, can affect subsistence and commercial activities. Alaska needs a strategy that prepares the state for the impacts of climate change and that identifies opportunities to lower greenhouse gas emissions. This strategy must be build on sound science and recognize unique conditions in Alaska.

In 2007, the Governor issued Administrative Order 238, which established a Sub-cabinet on Climate Change to advise the Governor on the preparation and implementation of an Alaska Climate Change Strategy (ACCS). DEC's Commissioner chairs the Sub-cabinet. The Sub-cabinet convened the Immediate Action Work Group

(“IAWG”), consisting of state and federal members, to develop recommendations for addressing the short-term needs of Alaska communities at risk from coastal erosion and flooding. The IAWG produced its initial report in April 2007 followed by a final report in March 2009. A number of its recommendations are already being implemented by state or federal agencies.

The Sub-cabinet also convened a Research Needs Workgroup as well as Mitigation and Adaptation Advisory Groups. The Mitigation and Adaptation Advisory Groups comprised of a cross-section of the Alaska public and were tasked to make recommendations on longer-term measures that should be included in the ACCS.

After conducting outreach and seeking public review from diverse audiences, each of these groups presented their recommendations to the Sub-Cabinet in 2009.

The Sub-Cabinet has since convened a high-level group of representatives from key state agencies to review the recommendations in light of other federal and state strategies, plans, requirements, priorities, and resources. The draft ACCS will provide a long-term roadmap to guide state action on climate change and will be presented to the governor for his consideration during the summer of 2010.

EPA and DEC will:

- Continue to work collaboratively in support of the development and implementation of the Alaska Climate Change Strategy.
- Coordinate, as necessary, on implementation of the “Green House Gas [GHG] Tailoring Rule” and any State rule changes needed to ensure that DEC can fully comply with Clean Air Act requirements for Prevention of Significant Deterioration and Title V permitting of major sources of GHG’s.
- Look for opportunities to work collaboratively with municipal, state, and federal agencies, tribal organizations, academia, industry and the public in review of the draft ACCS.
- Foster and facilitate information exchanges among appropriate entities and the public on climate change topics.
- Foster and facilitate information exchanges between EPA and DEC on technical issues across programs, including the GHG Reporting Program that EPA finalized in a rulemaking in the fall 2009. Sources emitting 25,000 metric tons of CO<sub>2</sub> (and all sources in specific sectors required regardless of size) must report their 2010 emissions to EPA by March 31, 2011 and annually thereafter. EPA and DEC will work to identify the sources that should be reporting their

GHG emissions under the program and help to resolve any technical issues associated with reporting their emissions.

- Work together to identify climate change research needs in Alaska and potential resources and partners to participate in this research; continue to participate in the Executive Climate Change Roundtable.
- Work together to organize effective public outreach on climate change topics through venues such as the Alaska Forum on the Environment and the Alaska Tribal Conference on Environmental Management; help organize and participate in information and discussion sessions and workshops.
- Coordinate efforts to identify and capitalize on opportunities to reduce generation of greenhouse gas emissions by governmental agencies.
- Coordinate activities and leverage resources to provide support to communities at risk.

EPA will:

- Provide a full-time person through September 2010 to serve as Project Coordinator for the Alaska ACCS stakeholder process, assist DEC in coordinating the Sub-cabinet's preparation of the draft ACCS for the governor's consideration, and assist DEC in the implementation of the ACCS and other federal and state climate change measures.
- Manage the Climate Change Track and all ancillary sessions for the Alaska Forum on the Environment (AFE), incorporating relevant information from the ACCS workgroup and other public processes in appropriate AFE sessions.
- Continue to be receptive to state use of grant funds in developing the ACCS.
- Work with DEC on ways to better assist rural communities seeking to transition to lower-carbon, less-expensive fuel sources, or needing to adapt to the effects of climate change.
- Work with rural communities to inventory dumpsites that are being threatened by erosion, flooding and permafrost melting due in whole or part to climate change, and help develop appropriate responses to these threats. EPA and the Indian Health Service have been gathering data on the current status of open dumps in the United States for the last two years. EPA understands that the next version of the *Indian Lands Open Dumps Inventory* will be published in late 2010. At periodic meetings with DEC and others, EPA will discuss possible waste management options for those tribal open dumps which are



threatened by erosion, flooding or permafrost melting caused in whole or part by climate change.

DEC will, through its standard authorities and through the chair of the Alaska Climate Change Sub-cabinet:

- Continue to refine its statewide inventory of greenhouse gas emissions.
- Work with key sectors responsible for the majority of GHG emissions on feasible ways to reduce those emissions through conservation, increased efficiency, alternative and/or renewable energy, and improved technology.
- Working with industry and other agencies, continue to explore ways to remove technical, legal and financial barriers to capturing and sequestering CO<sub>2</sub> emissions from major sources.
- Continue to follow regional and national activities relating to climate change mitigation, adaptation and research so as to position the State to implement and participate in future climate change programs.
- Ensure that the Alaska Climate Change Strategy is developed in an open and inclusive manner, with meaningful input from the public, and with public materials for review and comment.
- Continue to interface with all new federal initiatives, e.g. NOAA's Arctic Vision and Strategy, and recently established climate centers, e.g. DOI's Landscape Conservation Cooperatives and Climate Science Center.
- Continue to support the Immediate Action Work Group efforts to develop criteria and programs designed to prioritize and address climate change impacts to health, infrastructure, and cultural components of imperiled communities.

## **2. Timely Communication on Controversial Projects/Issues.**

DEC and EPA shall encourage effective and timely communication on large or controversial projects.

DEC and EPA will:

- Designate for specific mining and oil and gas projects, EPA Project Managers or Team leads who will serve as a primary point of contact for EPA to meet and review the status of ongoing projects, schedules and issues. Mining and Oil and Gas sector managers will meet on a routine basis to review status of major

projects, discuss federal and state legal and policy requirements, and identify any issues needing resolution.

- Coordinate announcements, to include EPA statement(s) provided by EPA Region 10 in news releases explaining the Toxics Release Inventory data. Coordinated announcements are to coincide with EPA's public announcement of the data release. Coordination will include DEC providing the final release draft to the EPA TRI Program prior to issuing. EPA's annual Toxics Release Inventory (TRI) continues to rank Alaska first in the nation for total toxic pollution releases. That ranking is based on total pounds of toxic chemical releases and other waste management activities in Alaska, most of which are attributed to trace metals in waste rock and tailings from the metal mining industry.
- Maintain communication as needed throughout the year to facilitate the resolution of mutual concern that might arise in Alaska regarding TRI reporting and data use.

DEC will:

- Work with EPA to provide mutually agreeable statements for DEC/TRI data news releases. Coordination will include DEC providing the final release draft to the EPA TRI Program prior to issuing. Work with EPA to draft Alaska-specific TRI documents as needed by DEC.

EPA will:

- Continue to provide technical assistance including review and comments for TRI documents and brochures to help Alaska educate its citizens on TRI. Prior examples of this assistance include the "Guide to the Toxics Release Inventory for Alaska" and "Factors to Consider when Using TRI Data".
- Maintain timely notice of activities from EPA headquarters and Region 10 including proposed rulemaking changes that may affect Alaska.

### **3. Mine Permitting Policies.**

There are two specific areas related to mining where it is timely for EPA and DEC to develop policies or procedures to ensure protection of the environment and provide clarity to the mining industry and stakeholders. These areas include: permitting of mine tailings impoundments and requirements for uranium exploration and mining. Recent litigation has resulted in changes to regulatory requirements and allowable configurations and practices for permitting tailings ponds for new mines in Alaska. A priority will be to establish a policy for permitting mines in Alaska following the

Supreme Court's decision on the Kensington mine tailings disposal. Due to high prices of uranium, there is interest in uranium and potential target locations for development of uranium mines. Currently Alaska does not have specific procedures for uranium exploration and mining.

EPA and DEC will:

- Working with the Corp of Engineers, develop approaches to managing mine tailings in Alaska.
- In coordination with ADNR, develop an approach for uranium exploration and mining that is protective of human health and the environment. EPA will assist by sharing what other states have done regarding regulation of uranium mining.

#### **4. Oil & Gas Coordination**

Oil and gas exploration in the Alaska offshore and Outer Continental Shelf (OCS) is increasing and this trend is expected to continue, ultimately resulting in new development and production activities. Currently, EPA is the air and water permitting authority for OCS sources and for NPDES permits into state offshore waters until NPDES Phase 4 delegation is complete. Because of current and future shared permitting responsibilities, ADEC and EPA will need to continue to develop and define roles and approaches for permit development and compliance activities. Lastly, the use of pesticide products in the scope of oil and gas activities has been increasingly identified as a concern through community and tribal input.

##### Air

Air permitting for OCS sources located up to 25 miles beyond the State's seaward boundary is delegable to the State. Given the current and expected air permitting workload for exploration and possibly production on the OCS both within 25 miles of the State's boundary and beyond 25 miles, sharing the permitting workload would enable federal construction and operating air quality permits to be issued in a timely manner.

##### Water

Water permitting for offshore and OCS sources involves significant data acquisition and evaluation for completion of Ocean Discharge Criteria Evaluations (ODCE) for permitting actions when discharge is outside of the baseline (Mean Lower Low Water [MLLW] or otherwise defined). Additional permitting requirements beyond Effluent Limitation Guideline [ELG's] may be an outcome of ODCE's, ESA and Tribal consultation and collection of Traditional Environmental Knowledge. Given the

current authorization schedule, EPA and ADEC may be jointly issuing or implementing a number of exploration General Permits for the Beaufort and Chukchi Seas and Cook Inlet. Continuity between these state and federal wastewater discharge permits is a significant concern for industry, tribal governments and other stakeholders.

EPA and DEC will:

- Meet at least semi-annually to coordinate oil and gas issues and actions of mutual interest. Oil and gas managers will brief senior managers on the status of major projects, discuss federal and state legal and policy requirements, and identify any water, air or other programmatic issues needing resolution or work group development. Oil and Gas managers will track and routinely share evolving dispersant use policy to ensure appropriate decision-making and identification of potential nexus with permitting actions. Other federal agencies or state departments may be incorporated into these meetings as necessary.
- Develop a strategic approach to address and incorporate issues of mutual interest and concern, such as Endangered Species Consultation, Health Impact Assessments, Tribal Government Coordination and Consultation, ELG application and use of Traditional Environmental Knowledge into permitting processes where shared boundaries and jurisdictions exist.
- Investigate options for delegating the air permitting program for the Alaska OCS (within 25 miles of the State's seaward boundary) to DEC as allowed in 40 C.F.R. Part 55. By March 2011, the EPA Regional Administrator and DEC Commissioner will discuss options for, and barriers to, delegation of the OCS air permitting program to DEC as allowed in 40 C.F.R. Part 55.
- Initiate preliminary conversations on pesticide (biocide, etc.) use in oil and gas exploration activities, regulatory roles for state and federal water, and potential inspection/evaluation methods to ensure compliance with FIFRA facilitated by program managers and inclusive of agency pesticide staff.

## **5. Improving Alaska Native Environmental conditions**

In order to improve environmental conditions in rural Alaska, DEC and EPA Region 10 will work to improve collaborative strategic planning efforts with Tribes in Alaska. A key component of meeting common goals is communication on a regular basis between EPA, DEC, and Alaska Tribes about technical assistance, educational, and funding opportunities so that information can be compiled and passed along to

Tribes. It will be our goal to create opportunities for partnerships between the DEC, the EPA, and the Alaska Tribes.

DEC has identified several environmental issues that are specific to tribes in rural Alaska, including the effects of long term exposure to the exhaust from the diesel generators that provide electrical power to nearly all of the rural villages, fine particle dust pollution in rural communities, and sustainable operation and maintenance of village sanitation projects. EPA has seen increasing evidence that burning of solid waste in burn barrels, and at open dumps or landfills may be posing significant health risk to Alaska tribal communities.

The EPA has a government to government relationship with, and trust responsibility to tribes. EPA Region 10 will continue to work in partnership and consultation with all federally recognized tribes. EPA recognizes that tribes have the authority to set their own environmental priorities, and will continue to work with tribes in a manner that acknowledges tribal sovereignty and self-determination. In implementing the Indian Environmental General Assistance Program (IGAP), EPA works to build tribal environmental capacity and adequate internal mechanisms to help tribes improve environmental protection. The IGAP provides grants to Tribes for the purpose of developing their capacity to develop and implement environmental protection programs. IGAP resources may also be used to implement solid and hazardous waste programs. In light of the unique solid waste challenges facing Alaska Native Villages, EPA Region 10 will continue to utilize the implementation authority provided under IGAP to assist tribes in the development and implementation of integrated waste management programs. In parallel, the Region 10 Office of Air, Waste and Management will continue to support tribal solid waste planning grants, the annual Alaska Tribal Conference on Environmental Management, and provide tribal solid waste assistance through the RuralCAP Senior Environmental Employee.

Under Alaska's federally recognized constitution, Alaska Natives and members of Alaska's federally recognized tribes have all the rights and responsibilities of Alaska citizenship. Under state law, DEC serves the interests of all Alaskans as represented by the state's elected officials.

Region 10, Office of Air, Waste and Toxics Tribal Team's, goal for FY 2011 is to help Tribes to develop ten or more Tribal Integrated Waste Management (IWM) plans and close, clean up or upgrade two open dumps. There is agreement between DEC and EPA on the need for collaboration and common sense approaches to achieving these strategic targets in Alaska.

EPA and DEC will:

- Continue to hold quarterly teleconferences to discuss tribal environmental and waste management issues.
- Continue to support monthly teleconference calls with tribal environmental professionals to raise awareness and share possible solutions to air pollution concerns associated with residential wood heating, road dust, solid waste burning, and diesel emissions.
- Participate in the Alaska Tribal Conference on Environmental Management (fall conference) and Alaska Forum on the Environment (AFE).
- EPA and State field solid waste experts will continue to help tribes to take steps to bring their open dumps into compliance with State of Alaska solid waste regulations and to reduce health impacts from any solid waste burning practices. For example, we will continue to conduct joint site visits to provide interested tribes with technical assistance and offer Rural Alaska Solid Waste Landfill Operator training.
- Continue to pursue collaboration with state, federal and tribal agencies and organizations to support mitigation of road dust pollution to raise the capabilities of rural tribal communities to access available funding, resources and information to work with their partners to effectively mitigate coarse particulate pollution (PM10) to levels in compliance with the NAAQS and safer to public health.
- Agree to work collaboratively with tribes and other federal, state and local agencies and organizations to find the most effective partnerships that will support solutions to air quality concerns related to wood smoke, solid waste burning, diesel emissions, and road dust.
- Agree to mutually support the EPA sponsored Tribal integrated waste management plans.
- Provide contact names for leads on the tribal solid waste issues.
- Work together on air quality issues associated with open burning in dumps, burn barrels, or any other solid waste burning. DEC Air Quality staff will provide technical assistance to EPA staff including outreach and education activities.

DEC will:

- Provide the EPA Office of Air Waste and Toxics Tribal Solid and Hazardous Waste Team Database coordinator, with current information on the names of Alaska villages with Class III permits.
- Provide EPA OAWT State and Tribal Air Program through regular communication and timely information on monitoring and other projects being initiated in Alaska Native Villages and/or with the support of any EPA tribal grant funded staff, such as the Tribal Environmental Coordinator of a tribal community, to facilitate appropriate involvement by the EPA grant project officer and evaluation of impact on any relevant work plan or other EPA activities with that tribe.

EPA will:

- Provide information to DEC on FY 2010 & FY 2011 Tribal Solid Waste Management Assistance Program Alaska recipients.
- Partner with the DEC Brownfield program to support their outreach to Rural Communities.
- Continue to convene EPA-ADEC quarterly solid waste teleconferences.
- Collaborate with DEC through regular communication on work with tribal communities for increased air quality monitoring data, for support of monthly conference calls with tribes on air pollution concerns, and for other opportunities to provide more effective information and support to tribes to better understand and address the air pollution sources within their communities.
- Invite experts from both ADEC and EPA to share information with Tribal IGAP grantees on rural dust issues and its potential impact on human health. Since increased dust is one of the problems that Tribal members sometimes attribute to climate change.

## **6. NPDES Permit Backlog**

An important measure of EPA and State program effectiveness is tracking the percentage of permits that have expired or are “backlogged”. Both agencies remain concerned about the EPA Region 10 NPDES permit backlog in Alaska. DEC and EPA Region 10 will work together to document and reduce the NPDES permit backlog. Backlog percentages are tracked nationally as performance measures. DEC believes the backlog in Alaska is larger than indicated by the national database and that it

will take considerable time to reduce the backlog. Reducing the backlog to a lower level is important as EPA and DEC transfer the program to the State. The State's success in reducing the backlog is in part dependent on the status of the permit backlog it is inheriting from the EPA. DEC plays an important role in addressing the backlog by issuance of timely Clean Water Act (CWA) 401 certifications. DEC and EPA's top priority is issuing permits that meet NPDES requirements on a timely basis in accordance with the permit issuance plans.

DEC and EPA will:

- Work cooperatively towards timely permit issuance and reduction of the permit backlog.
- Develop permit issuance plans for a cooperative effort to document and reduce the backlog. The plan will identify specific permits along with a timeline.
- By December 1, 2010 develop and circulate for agency comment draft DEC and EPA 2011 – 2013 permit issuance plans and by February 1, 2011, finalize and post the 2011 – 2013 permit issuance plans.
- Meet monthly to assess progress on permit issuance plans, conduct substantive issue discussions and coordinate permit issuance efforts.
- Update permit issuance plans quarterly, if necessary
- Cooperatively develop a transition plan to address NPDES phases and permits under development by EPA in preparation for transfer to DEC under the APDES program.
- Establish workshare projects, if appropriate, to address the NPDES backlog.

DEC will:

- Review and comment on draft NPDES permits prepared by EPA
- Issue timely 401 certifications of draft and final NPDES permits with the goal of issuing certification within thirty days after receipt of the permit from EPA.
- Issue APDES permits consistent with DEC's permit issuance plan.
- Inform EPA on a monthly basis as to DEC's progress on issuing APDES permits and 401 certifications of EPA's NPDES permits.
- Issue a draft and final Section 401 Certification for the Pogo Mine individual permit (AK0053341) and placer mine general permits (AKG37-0000 and AKG37-1000 by October 1, 2010.



- In support of EPA's re-proposal of the Cook Inlet Oil and Gas General Permit, DEC will—
  1. Develop and submit a draft Section 401 certification and draft anti-degradation analysis to EPA by September 17, 2010.
  2. Participate in EPA's public notice period on the draft certification and draft anti-degradation analysis, or conduct a separate public notice and comment period with a goal to start the minimum 30-day comment period by October 1, 2010.
  3. Issue a final Section 401 certification and final anti-degradation analysis for the Cook Inlet GP re-proposal by December 1, 2010.

EPA will:

- Issue or re-issue NPDES permits consistent with EPA's permit issuance plan.
- Inform DEC on a monthly basis as to EPA's progress on issuing Alaska NPDES permits
- EPA's goals are to: reissue the Mechanical Placer Mining General Permit (AKG-33-0000), the Medium-Size Suction Placer Mining General Permit (AKG-33-1000), and Pogo Mine (AK0053341) by October 31, 2010. If EPA falls short of that goal, EPA will provide draft permits and fact sheets for both to DEC that, in EPA opinion, meet the Clean Water Act and implementing regulations.
- Issue the Beaufort Sea and Chukchi Sea Oil and Gas Exploration permits (AKG28-2100) before DEC assumption of Phase IV Oil and Gas Sector (October 31, 2011).
- Re-propose the Cook Inlet General Permit for the anti-degradation modification.
- Re-issue the Cook Inlet Oil and Gas Permit for federal waters by July, 2012.
- Involve DEC staff during the drafting of the NPDES permits (see details of involvement under Capacity Building and Development, Section 8).
- Review and comment on APDES permits (or components of permits) drafted by DEC in accordance with the October 2008 Memorandum of Agreement.
- Keep DEC informed of upcoming requirements for vessel and pesticide use permitting and regulation.

## **7. NPDES Phase 4 Transfer Schedule**

Responsibility for NPDES permitting and compliance for the Oil and Gas sector is scheduled to transfer from EPA to DEC on October 31, 2011. EPA has proposed and DEC is currently evaluating the possibility of delaying the transfer of Phase IV.

DEC will:

- By September 1, 2010, inform EPA if it will remain on the October 31, 2011 transfer schedule or to request a delay in the schedule.

## **8. APDES Program Capacity Development and Implementation**

DEC will continue to develop its capacity to implement the APDES permit and compliance program, with assistance from EPA. The effort will focus on permitting, tribal and community involvement, as well as inspection and compliance capacity development. Working together to build the APDES program capacity continues as a high priority.

DEC and EPA will:

- Meet quarterly - develop and report on inspection, enforcement, data management and compliance activities.
  - Submit quarterly reports of facility specific violations and DEC's response. These reports will include the facility identification number, name of facility, date of violation, DEC response, and date of DEC response.
  - DEC has assigned a compliance staffer the responsibility for monitoring the 24-hour hot line. A summary document, based upon an EPA template, will be provided to EPA at the quarterly meetings.
  - DEC will provide reports to EPA during the quarterly meetings that will document that DEC's program as implemented is consistent with Chapter 9 of the Program Description and the APDES Enforcement Response Guide.
- Share draft lists of anticipated NPDES and APDES inspection candidates by February 28, 2011. These lists will serve as the Compliance Monitoring Strategy Work Plan for SFY 2011 and will be consistent with EPA's Compliance Monitoring Strategy. Once the inspection lists are final, DEC and EPA will coordinate all changes, which occur throughout the inspection year, preferably prior to the inspection. EPA's sharing of its inspection list is conditioned on a

statement from the state Attorney General's office that DEC will not release the EPA list under a request for information.

- Share inspection results and planned enforcement actions.
- Identify EPA enforcement cases where DEC can participate in building the enforcement case or participate in calculating a penalty.
- In July 2009, EPA's enforcement and compliance program was directed by the Administrator to examine the water enforcement program in light of information showing that water quality goals are not being met and that there are too many violations in too many places. To help satisfy this charge, EPA engaged in an outreach effort to solicit views from environmental commissioners, state water program managers, tribal representatives, environmental advocates, environmental justice groups, affected industry, and academics. EPA and DEC shall meet to discuss the implications for each agency resulting from the finalization of the Clean Water Act Action Plan. On June 22, 2010, EPA issued the Interim Guidance to Strengthen Performance in the NPDES Program. This document requires EPA and DEC to develop a joint annual Clean Water Act (CWA) NPDES work plan to address permitting, compliance, monitoring, and enforcement activities, by December 31, 2010. The guidance also directs EPA regions to take actions to raise the bar for state performance.
- Cooperate on these EPA-provided capacity building opportunities for DEC's oil and gas sector permitting work during the transition period:
  - Tier 1: DEC's project manager for the existing Arctic Exploration General Permit (GP), and other DEC staff as applicable, can shadow EPA team members on GP implementation (e.g., evaluating notices of intent, reviewing public input and participating in GP coverage discussions. Tier 1 is also a part of Tier 2 and 3 opportunities because DEC can participate in joint reviews of the Notices of Intent (NOIs) for the Beaufort Exploration GP and the Cook Inlet GPS when those permits are issued.
  - Tier 2: DEC's project manager for the Beaufort and Chukchi Exploration GPs, and other DEC staff as appropriate, can take the opportunity to be exposed to as many procedural and substantive permit development and issuance exercises as possible so that DEC's experience can be transferred to DEC's assessment of its resource needs (e.g. staff numbers, skill sets, infrastructure capacities, procedures, etc.). Tier 2 will also provide co-writing opportunities so

that the DEC permit writer and DEC project manager are exposed to permit development exercises.

- Tier 3: Cook Inlet General Permit Reissuance. This Tier 3 exercise consists of two primary elements: (1) a continuation of the Tier 2-type shadowing process and (2) actual DEC permit writer experience developing and drafting an APDES general permit in a concurrent, parallel permit development process (e.g., EPA's development of a general permit for exploration activities in federal waters in conjunction with DEC's development of a general permit for exploration activities in state waters).

DEC will:

- DEC will mobilize a multi-disciplinary team to shadow EPA's Beaufort and Chukchi Exploration General Permit team to take full advantage of building capacity to take on the oil and gas sector prior to transfer of the program to DEC. The activities include:
  - The team can shadow EPA's team and participate in the planning activities for the permit.
  - In September 2010, begin developing a draft Section 401 certification for the Beaufort GP submit to EPA by December 1, 2010.
- Mobilize a team to issue the Cook Inlet General Permit. By January 1, 2011, establish a multi-disciplinary team to develop and implement a plan and a critical path schedule that leads to the reissuance of the GP (it expires on 7/20/12). The activities include:
  - By February 1, 2011, complete development of a work plan and critical path schedule (with interim and final actions and deadlines) with a goal to reissue the GP prior to July, 2012.
  - By February 15, 2011, exchange with EPA the list of DEC's and EPA's team members and contact information, the joint work plan and critical path schedule.
- DEC will follow the February 2009 EPA Field Notes Policy with respect to retention of inspection field notes for any NPDES inspections the Department conducts.
- Continue to produce a "Capacity Building Summary" report every six months that includes an overview of capacity planning for subsequent primary phases.

- By March 1, 2011, DEC and EPA will discuss DEC's implementation of the procedures in its Public Participation in the APDES Permitting Process with respect to all permits public noticed during the time period of November 1, 2009 - February 1, 2011 regarding Tribal and Services (i.e., NOAA/NMFS and US FWS) communications and solicitation of input. DEC will provide a written summary of communication with the Tribes and the Services and DEC and EPA will discuss recommendations, if necessary, to address areas of concern or for improvement.

EPA will:

- Submit complete APDES inspection reports to DEC within 60 days of the inspection.
- Inform DEC of NPDES training opportunities in NPDES permitting, compliance and enforcement
- Provide information and technical assistance to DEC staff to support development of tribal communication plans, and with incorporating traditional environmental knowledge into the permitting process.
- Provide examples of Tribal communication strategies from the NPDES programs in other states.
- Transfer complete NPDES files and other relevant materials for Phase III so that they arrive at DEC no later than October 1, 2010 consistent with the terms of the NPDES MOA.

## **9. Vessel Permitting and Regulation**

DEC and EPA need to work together, coordinating efforts and requirements for regulating discharges from vessels, in order to produce a coherent state and federal regulatory regime.

DEC and EPA will:

- Coordinate efforts and requirements for EPA's vessel permitting and regulation.
- Specifically address cruise ship discharge technology and the effect of recent Alaska cruise ship discharge legislation.
- Share information regarding permitting of wastewater from cruise ships and other vessels.

## **10. NPDES Permit for Pesticides**

A recent 6<sup>th</sup> Circuit Court decision may have implications for future pesticide permitting and related applications. A draft General Permit was released by Headquarters with a final permit to be issued by December 2010. Region 10 will be the permitting authority for Alaska as pesticides were determined to be a Phase IV APDES sector.

DEC and EPA will:

- Identify contacts for this sector and coordinate on Region 10's issuance of a general permit, including how it will be administered before and after APDES Phase IV assumption.

DEC will:

- Prepare a 401 certification for the permit to include Alaska specific conditions.
- The Pesticides Program will:
  - Review the draft EPA NPDES General Permit (GP) for pesticide discharges, and comment as necessary;
  - Participate in relevant meetings and conference calls related to implementation of the NPDES requirement;
  - Support DEC's Water Division on pesticides questions related to discharges covered under NPDES requirement; and
  - Conduct outreach activities in support of the NPDES requirement implementation.

## **11. Timely Revision of State Water Quality Standards**

Water quality standards (WQS) are the foundation of Alaska's water protection and restoration efforts. DEC is required by the Clean Water Act to conduct a comprehensive review of the Alaska's water quality standards every three years to integrate current science and technology. Before changes to the water quality standards can take effect for Clean Water Act purposes, they must be approved by the EPA. DEC and the EPA are committed to working together collaboratively to ensure that appropriate water quality standards are in place. Due to past delays in approval, this priority needs immediate attention.

DEC and EPA will:

- Work together early in the water quality standards (WQS) revision process to identify the information, data, and justification that may be needed to support the timely approval of changes to the WQS.
- Work together to identify principles and processes to promote early involvement on WQS development. These may include procedures for development of action plans for individual WQS revisions and approvals; etc.
- Work together to identify potential issues for the 2011-2013 Triennial Review.
- Implement these principles and processes in new or revised WQS initiated in SFY 2011, including those initiated outside of triennial review process (e.g., Use Attainability Analysis, site-specific criteria that may be requested by permittees).
- Discuss overall WQS workload planning, prioritization, and resourcing for efforts to be undertaken in SFY 2011. The outcome of this discussion will be a written timeline for work to be undertaken in SFY 2011, their relative prioritization, timeframe of work elements, and resources expected to be needed. Provide a monthly status report to the water directors.
- Work together to bring about the early involvement of NOAA-Fisheries and US Fish & Wildlife (“Services”) in standards revisions when an Endangered Species Act (ESA) or Essential Fish Habitat (EFH) consultation may be required.
- Continue to coordinate the timely involvement of the Services as needed to ensure that, ESA and EFH consultation requirements are completed within CWA approval timeframes.
- Continue to work together as EPA completes Tribal government-to-government consultation on WQS review actions.

DEC will:

- Inform EPA of water quality standards issues under consideration for revision.
- Negotiate a schedule for each action with EPA giving consideration to schedule drivers for EPA and DEC and the desired time frame for action.
- Describe their proposed approach and seek to reach agreement with EPA on the approach prior to releasing revisions for public comment.
- Provide EPA an opportunity to review a draft revision and discuss their comments with DEC prior to the public comment period.

- Provide draft and final submittal documents to EPA, consistent with 40 C.F.R. 131. A clear explanation of the technical support for the change (e.g., any technical literature reviews that were conducted to inform the revisions; a discussion of how the changes affect the protectiveness of the standard for designated uses) will also be included.

EPA will:

- Take final actions on the mixing zones water quality standards revisions already adopted by the state.
- Provide “upfront” technical assistance to DEC on proposed revisions to Alaska’s water quality standards, to meet Clean Water Act requirements including scientific, technical, and other input as appropriate.
- Perform Tribal consultation and ESA/EFH on EPA approval of DEC’s WQS revisions.
- Where appropriate, raise issues that may be unique to Alaska waters in national WQS policy discussions.

## **12. Conduct Coastal and Freshwater National Aquatic Resource Surveys (NARS) of Alaska’s Waters**

DEC is committed to participating in EPA’s sponsored National Aquatic Resource Surveys to assess the status and trends of Alaska’s coastline and freshwater. The information collected enables EPA to report on the condition of the nation’s waters and enables EPA and the states to understand the range of water quality conditions and monitor for environmental change. A priority will be to continue efforts to complete baseline assessments for remaining coastal regions of Alaska following NARS protocols originally developed for the Environmental Monitoring and Assessment Program (EMAP) DEC has in-house expertise necessary to conduct and coordinate the monitoring and assessment work on Alaska’s aquatic resources with other DEC programs, EPA, and other state, federal and tribal agencies and stakeholders.

EPA will:

- Provide funds to Alaska for the National Aquatic Resource Surveys. Funding levels for future NARS projects may vary depending on scope and regional scale of the identified survey.



- Provide the NARS methods (or modified methods approved by EPA) and some of the equipment and supplies and analysis needed. EPA will also provide training on the NARS methods and will conduct field audits of DEC.
- Provide funding for the Monitoring Strategy implementation (approximately \$174K per year), as funding allows.

DEC will:

- Complete NARS baseline surveys of the remaining coastal waters and additional freshwaters, as funding allows.
- Complete analysis for the NARS Streams and Rivers Survey in Alaska (Yukon River), using national methods, and provide the data to EPA.
- Conduct NARS wetlands surveys in Alaska (Arctic Coastal Plain) during the summer of 2011, using NARS methods (or modified methods) and supplemental indicators.
- Update the DEC Monitoring and Assessment Strategy for FY 11-FY15, with a focus on the Arctic Coastal Plain. This plan will also incorporate a funding strategy.
- Implement the AKMAP Chukchi Sea Coastal Survey to conduct a two year survey during the summers of 2010 and 2011 using funding from the Minerals Management Service Coastal Impact Assistance Program.

DEC and EPA will:

- Work on a 5 year NARS survey plan for the Arctic Coastal Plain supported by funding commitments from EPA and incorporating partnerships with other agencies including in-kind services.
- Work jointly and with other partners to develop appropriate indicators for the Wetlands Survey in Alaska to be conducted during the summer of 2011, as funding allows. Additional indicators may be included to address the information needs of DEC and other partners as funding allows.
- Seek additional EPA funds or funding sources from other federal agencies for the national surveys.
- Work together to prepare grant workplans to provide funding to implement the 5-year Arctic Coastal Plain Monitoring Strategy as part of the EPA NARS program in Alaska.

### **13. Drinking Water Rules and Primacy Delegation Approvals**

The EPA and DEC will work collaboratively to protect human health and ensure that water is safe to drink by reducing exposure to contaminants in drinking water. The numerous and increasingly more complex federal drinking water rules continue to challenge the DEC Drinking Water Program, requiring increased staff resources to complete timely adoption, primacy delegation approval, implementation, and reporting to EPA. Additional time is also spent in reviewing the regulatory packages with management and training staff to obtain a sound working knowledge of the rules for consistent statewide implementation. There are some very significant issues that need to be addressed this year. DEC will be submitting their Long Term 2 (LT2) Enhanced Surface Water Treatment Rule and Stage 2 Disinfectants/Disinfection By-products Rule adoption by reference and revised primacy applications prior to January 2011, slightly later than required. In addition to LT2 and Stage 2, DEC plans the adoption by reference of the Ground Water Rule (GWR) and submittal of a revised primacy application before the end of the State Fiscal Year 2011.

DEC will:

- Assign staff to work with the EPA to obtain extension agreements, when necessary to complete rule development or rule adoption packages, and primacy applications.
- Submit final primacy application packages for the Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) and Long Term 2 Enhanced Surface Water Treatment Rule (LT2) no later than September 30, 2010.
- Review construction plans submitted for approval and evaluate them for compliance with the Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) and Long Term 2 Enhanced Surface Water Treatment Rule (LT2) even though primacy has not been granted.
- Continue to determine the resources necessary to effectively implement Groundwater Rule and advocate for the additions to the Drinking Water Program.
- Continue to provide Ground Water Rule (GWR) information about affected public water systems to EPA upon request.
- Submit final primacy application package for the Groundwater Rule (GWR) as soon as possible before the end of State Fiscal Year 2011. DEC has informed EPA that DEC will not be able to meet the extension deadline of November 22, 2010.

- Maintain a State Drinking Water Laboratory Certification Program.
- Establish an agreement with a Principal State Laboratory as described in the USEPA Region 10 Drinking Water Certification Program “white paper” guideline.

EPA will:

- Support the use of extension agreements for rule adoptions and provide timely guidance in the form of staff and written documentation to DEC on the statutory requirements for rule adoptions, primacy delegation, and program requirements.
- Continue to implement the three new drinking water regulations: 1) Long-Term 2 (LT2) Enhanced Surface Water Treatment Rule; 2) Stage 2 Disinfection By-Products Rule; and 3) Groundwater Rule (GWR) until DEC submits appropriate primacy application to EPA. In a number of instances, the EPA will work directly with the water systems; therefore, EPA will keep DEC informed of all activities undertaken by EPA Region 10 and or EPA Headquarters implementing these rules in Alaska.
- Work with DEC to provide for a smooth transition of LT2, Stage 2, and GWR implementation tasks, including the transferring over of EPA’s LT2 *E. coli* database.
- Finalize the USEPA Region 10 Drinking Water Certification Program “white paper” guideline.

EPA and DEC will:

- Continue implementation activities outlined in the extension agreements for LT2, Stage 2, and the Ground Water Rule as appropriate.

#### **14. Public Water System Compliance**

New federal rules continue to challenge the overall ability of public water system (PWS) owners and operators to achieve and maintain compliance with all the drinking water rules, to best assure that the public is being provided drinking water that meets all health-based standards. DEC Drinking Water Program staff continues to provide compliance and technical (engineering) assistance to PWS owners and operators to increase systems abilities to maintain compliance with the rules. DEC as the primacy agency for drinking water and PWS oversight must also enforce regulations when compliance and technical assistance does not achieve the appropriate results. DEC is currently working collaboratively with the Association of

State Drinking Water Administrators (ASDWA) and EPA on the Enforcement Targeting Tool (new SNC List) Pilot project and Enforcement Response Policy.

DEC and EPA will:

- Implement the compliance assurance agreement and strategy on how to address the backlog of significant non-compliers (SNC's).
- Begin using the Enforcement Response Policy (ERP) and the accompanying Enforcement Technical Tool (ETT) to prioritize enforcement actions and compliance assistance activities.

DEC will:

- Provide compliance assistance consisting of written information and workshops for public water system owners and operators, utility managers, technical service providers, and consulting engineers on drinking water rule requirements.
- During the engineering plan review process, provide applicable technical assistance for drinking water treatment technologies.
- Focus available resources on addressing violations before they become significant non-compliers (SNCs) when possible and to the extent practicable address SNC's before they become exceptions.
- Provide training workshops in Alaska for DEC staff, public water system owners and operators, utility managers, technical service providers, and consulting engineers on the implementation requirements of new federal rules.
- Develop an appropriate SNC outreach (list) format for internal and public use of the "new" SNC List and EPA Enforcement Targeting Tool.
- Provide comments to EPA through the Association of State Drinking Water Administrators (ASDWA) on the SNC Pilot Project and Enforcement Responsiveness Plan.
- Focus compliance and technical assistance activities on, and with, specifically selected water systems using the statewide Technical Assistance Providers group.
- Document status component assessments for public water systems (PWS) using a surface water source or ground water under the direct influence of surface water source to determine LT1 compliance status and to better prepare water systems for LT2 compliance planning.

EPA will:

- In partnership with DEC, and when requested, complete timely enforcement on public water system referrals that have a significant history on noncompliance and non-cooperation with DEC.
- Ensure that DEC has an opportunity to provide comments on all press releases and other notifications regarding public water systems (PWSs) in Alaska before they are finalized by the EPA press office and released. EPA will consider, address and respond to DEC's comments and seek DEC's agreement on the "final" version.
- Communicate and coordinate all public water system (PWS) issues through DEC program management staff prior to contact with any third party to include Technical Assistance Providers and PWS owners and operators, on any work the EPA may do relating to PWS in Alaska.
- Work to ensure that DEC has a timely and updated Enforcement Technical Tool (ETT) List every quarter, to track performance of work-plan objectives.
- Provide the draft "Return to Compliance" criteria for the Enforcement Response Policy and for new rules, for review and comment by DEC.

## **15. Surface Water Quality Assessment, Restoration and Protection (nonpoint source pollution controls)**

Non-point sources can contribute significantly to water pollution in Alaska. Controlling and preventing non-point source pollution is challenging and requires the cooperation of local, state and federal land-manager levels to avoid costly waterbody restoration actions on polluted waters.

DEC and EPA will:

- Coordinate and implement activities that will control nonpoint source pollution and restore waters that are already impaired. This includes ensuring that the court ordered requirement to develop at least two TMDLs per year is met. The TMDLs should include an implementation section that incorporates a watershed planning approach to restore waters and prevent pollution.

DEC will:

- Prepare a listing methodology to include in the 2012 Integrated Report.

- Investigate current statutes and practices, identifying regulatory gaps, and conducting an analysis of the effectiveness of the current programs in place to determine what other mechanisms are needed for state-wide protection.
- Continue efforts to satisfy EPA's National Measure SP 12 on two waterbodies.
- Conduct actions required to address the outstanding conditions related to Alaska's coastal nonpoint source pollution control program (under CZARA Section 6217), specifically: Under Urban/New Development, Roads, Highways and Bridges, and On-Site Sewage Disposal Systems, (1) demonstrate a commitment towards implementing recommendations contained in the Statewide Storm Water Management BMP Manual; (2) develop and implement a targeted approach for meeting the new development management measure within targeted communities; (3) either revise Alaska's 2004 OSDS Strategy on existing OSDS through using one of the already EPA/NOAA approved approaches from other states or create a new approach to satisfy Alaska's condition for existing OSDS which is consistent with the 6217(g) guidance and clearly demonstrate Alaska's commitment to implementing the approach.

EPA will:

- Provide clear criteria for meeting national objectives, technical assistance, and timely, constructive comments on draft work products.
- Provide timely review of final work products to ensure national and state goals are met.
- Work with NOAA to provide clearly defined expectations and timely review and approval for the DEC submittal of the remaining requirements noted above the Coastal Zone Management Act. EPA expectations will take into consideration DEC available resources and Alaskan conditions (e.g. population density, transportation system, remote locations).

## **16. Rural Dust Pollution**

DEC has suspected for some time that coarse particle dust pollution in rural communities may be exceeding Clean Air Act health standards for PM<sub>10</sub>. DEC, in collaboration with Northwest Alaska communities and Alaska DOT, conducted ambient air monitoring that revealed numerous exceedances of the health standard in Kotzebue, Noatak, Buckland, Kiana, Noorvik, Ambler and Bethel. DEC suspects similar conditions of high PM<sub>10</sub> pollution exists in many more rural communities during spring through fall when dry conditions prevail.

The dust is caused primarily by vehicle and 4-wheeler traffic on unpaved roads and unvegetated areas, as well as wind scarification and erosion of loose surface materials including glacial till and fine sands from river delta areas.

Many communities and tribes are interested in reducing this pollution. While DEC and EPA will provide assistance for select monitoring projects, DEC, ADOT, and EPA have been focusing attention on evaluating the improvements that may be accomplished through various dust mitigation options. ADOT has begun implementing a State of Alaska project the Dust Suppression Project: Water Trucks and Tankers in eight rural tribal communities over the last year that will provide trucks, tankers and water soluble palliatives to determine the most effective approaches to reducing road dust. After the results of this project are known, it is hoped that the information will be used to justify funding the most appropriate dust mitigation for remaining communities with dust problems.

DEC and EPA will:

- Work collaboratively in communicating and working in partnership with the rural and tribal communities affected by adverse PM10 pollution to provide information on funding and mitigation strategies to help reduce road dust and its adverse impacts.

DEC will:

- Provide technical assistance and training, as resources allow, in coordination with EPA to tribes and tribal organizations that will be conducting air monitoring projects, particularly where tribal involvement will be supported by grant funding under EPA programs, such as the Clean Air Act or the Indian General Assistance Program.
- Work in partnership with Alaska Department of Transportation and Public Facilities (ADOT), the Northwest Arctic Borough, and the City of Kotzebue to undertake roadway based PM10 mitigation studies and remedies to reduce PM10 exposure to the extent state or federal funds are made available through ADOT or the Federal Highways Administration.
- Provide assistance to the Northwest Arctic Borough, the City of Kotzebue, NANA Regional Corporation, Mannilaq Health Corporation, and Kotzebue based tribes, as well as other Alaskan communities and tribes in assessing dust conditions, assessing dust mitigation options or related matters.

EPA will:

- Work cooperatively with DEC staff to evaluate air pollution conditions in rural / tribal communities.
- Collaborate with DEC and other entities such as ADOT, Denali Commission, Bureau of Indian Affairs, Indian health services, HUD, etc. to support an integrated approach to road dust mitigation that can be available to Alaska Native Villages.
- Continue to support training and workshops for Alaska Native Villages and communities to discuss air quality concerns (including road dust), to share knowledge, and to leverage resources.

EPA and DEC will:

- Produce and disseminate outreach materials to Alaska Native Villages and communities about health impacts of air pollution, including road dust and best management practices to minimize risk and exposure. EPA and DEC will consult and seek peer reviews of the outreach material, as appropriate.

## **17. PM<sub>2.5</sub> NAAQS Implementation**

The Fairbanks 24 hour PM<sub>2.5</sub> nonattainment area (NAA) will require a focused effort and collaboration among major federal, state and local agencies to restore the area's air quality. Conditions and the sources that cause or contribute to air pollution in the Fairbanks NAA are not very well understood due to the extreme weather and complexity of sources. Efforts to solve the air quality problem will therefore require the EPA, DEC, USDOT, Fairbanks North Star Borough, the Department of Defense installations in the area, the community and industrial facilities in the Fairbanks area to work collaboratively to identify the sources and mechanisms that form air pollution in Fairbanks. Once the sources and mechanisms of air pollution are identified, these constituents will need to work collaboratively to identify solutions that restore air quality in the Fairbanks NAA. In-kind and funding resources, in addition to prioritization of the work needed to solve the problem in this area, will be critical to restoring air quality in this area.

## **18. Air Toxics and Diesel Emissions**

DEC will continue to commit staff resources necessary to manage their Diesel Emission Reduction grants so that all requirements are met and grant objectives are



attained. DEC will demonstrate its commitment to the reduction of air toxics and diesel emissions by identifying existing resources and the staff for this effort. EPA encourages additional commitment of resources so that these programs can be successful and sustainable. In addition, new developments may impact EPA's ability to implement the asbestos National Emissions Standard for Hazardous Air Pollutants (NESHAP) to DEC or another State agency. EPA will continue to provide technical support and programmatic guidance for these programs.

## **19. Fish Tissue Monitoring**

DEC has collected fish from Alaskan waters every year, starting in 2001. The fish have been processed at DEC's Environmental Health Laboratory and analyzed for heavy metals (methyl mercury, total mercury, lead, arsenic, chromium, cadmium, selenium, & nickel). A subset of the fish samples collected is being analyzed at a commercial lab for dioxins and furans, pesticides, PCB and PBDE congeners, and inorganic arsenic.

DEC determines on-going sampling by considering areas or species that need further evaluation and where we have willing sample collectors. EPA Region 10 has included fish contaminant surveys in their strategic plan for achieving the objective for fish and shellfish that are safe to eat.

DEC will:

- Implement the statewide fish tissue monitoring plan for mercury and other contaminants, informing EPA of general progress in implementation of the plan and consulting with EPA in the case of deviations from the Quality Assurance Monitoring Plan. Fish Monitoring Program collected approximately 400 fish samples from across the state. Samples are currently being analyzed.
- Maintain a web page where EPA, the public, and tribes can access data collected on the levels of mercury and other heavy metals found in Alaska fish.
- Submit to EPA a draft report of the data results when DEC has finalized it. This report will include all validated data from the analysis of fish tissue performed as part of the Fish Tissue Testing Program.
- Consult with the Alaska Department of Health and Social Services regarding the benefits and risks of consuming Alaska fish. State guidelines can be found at: <http://www.epi.hss.state.ak.us/eh/fish/default.htm#guidelines>. Working collaboratively ADEC, USFWS and DHSS analyzed pike from the Yukon River watershed and developed fish consumption guidance for Native subsistence communities. This information has been distributed by site visits and the

development of a poster that has been distributed throughout the area.

[http://www.epi.hss.state.ak.us/eh/fish/YKD\\_Pike\\_Mercury\\_Poster.pdf](http://www.epi.hss.state.ak.us/eh/fish/YKD_Pike_Mercury_Poster.pdf)

- After review of the data the Advisory Committee identified some information gaps, for example that additional data was needed for fish in the Aleutian Island/Bering Sea. Some fish were collected from the area in 2009 and are being analyzed, more samples are scheduled for collection.
- Provide EPA with all past and future validated fish tissue data. Fish tissue data was sent to EPA to update the National Listing of Fish Advisories and two presentations were given by state representatives. A poster outlining the Yukon River pike study was also displayed.
- Meet with EPA to discuss the Mercury Fish Consumption Advisory for Alaska.

EPA will:

- Provide information to DEC on mercury and other fish consumption advisories developed by the State of Alaska.

## **20. Contaminants: Mercury and Persistent Organic Pollutants.**

A priority will be to better understand and begin to address the threat posed by persistent organic pollutants (POPs) to Alaska and North Pacific and Arctic Ocean resources. A long term goal will be to develop a strategy that identifies research needs so that predictive trends can be determined.

EPA and DEC will:

- Work together to identify a stable long-term funding source to continue and expand current efforts to monitor mercury and POPs levels in fish tissue and human populations.
- Support workgroups to develop an Alaskan Contaminants Strategy that engages stakeholders interested in this policy.
- Collaborate on a Mercury Conference to be held in October of 2010.
- Research the influence of transboundary pollution on North Pacific and Arctic Ocean POPs.
- Work together to identify a stable long-term funding source to continue efforts to monitor transboundary deposition of mercury in Alaska.

DEC will:

- Conduct mercury air deposition modeling in coastal Alaska as funding becomes available through the Minerals Management Service Coastal Impact Assistance Program (CIAP).

EPA will:

- Incorporate efforts occurring in Alaska into the Region 10 Mercury Plan.

## **21. Drinking Water Laboratory Certification Program**

In order to maintain primacy for the Drinking Water Certification Program for chemistry and microbiology under the Safe Drinking Water Act, the State of Alaska must meet a number of regulatory requirements including:

- Establishing and maintaining a program for the certification of laboratories conducting analyses of drinking water compliance samples,
- Designating a “laboratory officer or officers, certified by the Administrator or designee as the official(s) responsible for the certification program,” and
- Having (an) available EPA/National Environmental Laboratory Accreditation Conference (NELAC) certified laboratory facility(ies) capable of performing analytical measurements for all of the federally required contaminants specified in the State Primary Drinking Water Regulations.

The EPA Region 10 Laboratory is responsible for oversight of the Drinking Water Certification Programs in Alaska. The Laboratory’s roles are to:

- Evaluate the State’s Drinking Water Certification Program at least once every three years during an on-site audit and once a year through a questionnaire and/or teleconference.
- Monitor annual Performance Test results from state principal laboratories.
- Audit state principal laboratories on a triennial bases.
- Monitor the adequacy of the State’s Drinking Water Certification Program, and determine the certification status of the principal State laboratories.

DEC will:

- Participate with the EPA Region 10 Laboratory Drinking Water Certification Officers in the annual review of the Alaska Drinking Water Laboratory Certification Program and the triennial EPA inspection of the State-maintained principal laboratory. The triennial EPA inspection will include the EPA Region

10 Laboratory Drinking Water Certification Officers accompanying the Alaska Drinking Water Certification Officers on an audit of one or more commercial drinking water laboratories.

- Designate third-party EPA/NELAC certified laboratories as principal laboratories for analysis of contaminants for which the State-maintained laboratory is not EPA/NELAC certified. Written agreements are maintained with each of the laboratories.
- Ensure that the Alaska Drinking Water Certification Program meets all criteria in EPA's current "Manual for the Certification of Laboratories Analyzing Drinking Water" by maintaining a current Quality Assurance Plan and Standard Operation Procedures. This effort will be the responsibility of the Quality Systems Manager with assistance from the DEC Certification Authority and Drinking Water Certification Officers.
- Ensure Alaska Drinking Water Certification Officers are provided with a minimum of two weeks per year of laboratory bench experience in their area of drinking water analysis in order to maintain proficiency.
- Inform the EPA Certification Authority of major changes to the State's Drinking Water Certification Program, including but not limited to, loss of Certification Officers, within 30 days.

EPA will:

- Conduct the annual evaluation of the Alaska Drinking Water Laboratory Certification Program and the triennial audit of the State-maintained laboratory and designated- principal laboratories. This effort will include the EPA Region 10 Laboratory Drinking Water Certification Officers accompanying the Alaska Drinking Water Certification Officers on a triennial audit of one or more commercial drinking water laboratories.
- Assist the State Drinking Water Certification Officers with access to the EPA Region 10 Laboratory when practical, in order to assist in gaining two weeks of laboratory bench experience in drinking water analysis to maintain proficiency.
- Keep the State Drinking Water Certification Officers aware of changes to EPA requirements for the Drinking Water Certification Program and provide advice and guidance on technical issues.

## **22. Pesticide Regulatory Program**

DEC implements a comprehensive pesticide program in the state. Alaska has had primary enforcement responsibility for pesticide misuse since 1989. DEC also trains and licenses pesticide applicators, and implements ground water, worker, and endangered species protection programs. All these programs are part of the Cooperative Agreement between the EPA and DEC. The Department also implements a Pesticide Registration Program and Pesticide Use Permitting Program, which is not part of the Agreement. The mission of the DEC Pesticide Program is to protect human health, safety, and welfare, animals, and the environment by ensuring the proper use, sale, distribution, and disposal of pesticides.

DEC and EPA will:

- Conduct a joint evaluation process that focuses on the reporting items specified in the grant workplan.
- Conduct a mid-year evaluation to review the current program accomplishments in relation to the grant workplan.
- Within 120 days after the end of the budget period, conduct an evaluation and review the accomplishments for the year.

EPA will:

- Provide technical assistance to the DEC Pesticide Program staff as needed.

DEC will:

- Within 90 days after the end of the budget period, prepare an evaluation report that reviews the accomplishments for the year.

## **23. EPA to Report Bi-annually on EPA Progress on PPG Workplans**

By receiving EPA reports bi-annually, DEC can gain a clearer understanding of project status and how projects track against the workplan.

EPA will:

- Provide bi-annual PPG workplan report to DEC.

## **24. Drinking Water and Wastewater Loan Programs**

DEC and EPA share an interest in improving environmental protection and public health by making low interest loans available to Alaskan communities and other eligible entities for financing drinking water, wastewater and water quality related projects.

In order to efficiently and effectively meet these needs, the DEC and EPA agree to the following:

DEC and EPA will:

- Cooperate in performing an annual program review for both State Revolving Fund (SRF) loan programs in order to assure that all state and federal requirements are being met, to identify areas where improvements can be made, and to recognize successful program implementation.

DEC will:

- Follow all terms and conditions outlined in the Operating Agreement, yearly capitalization grant agreements, federal statutes, regulations and published national guidance and policies for both SRF loan programs.
- Submit annual SRF reports to EPA as required.
- Develop, review and modify annual Intended Use Plans for both SRF loan programs.

EPA will:

- Provide DEC with updated program guidance from EPA Headquarters as it becomes available.
- Upon request, provide timely advice regarding SRF program implementation.
- Make necessary training available to DEC staff responsible for administration of both loan programs.

## **25. Sanitation Facility Projects for Rural Alaska Communities**

DEC and EPA have a vested interest in providing sanitation facilities to the rural Alaska communities and Alaska Native communities to improve the health and sanitation conditions in these communities and villages. In order to efficiently and effectively meet the needs of the communities the DEC and EPA agree to the following

DEC and EPA will:

- Abide by the 2006 three party MOU.
- Participate in interagency coordination meetings at least semi-annually, with other agencies involved with rural sanitation.
- Work cooperatively to maintain procedures for allocating state and Federal funding available for sanitation facility improvement projects. All available funding will be allocated annually.

DEC will:

- Annually, update a database of rural sanitation needs organized by community, including water and sewer service levels to individual homes.
- Submit required Federal grant application forms and associated work plans to Federal funding agencies a minimum of sixty days prior to the proposed start date of the proposed federal award, and no later than August 1st.
- Implement the policy for stalled projects. The goal of the policy is to ensure that studies and construction projects are completed as soon as practical taking into consideration community needs, expectations, capacity and local conditions. In the event that projects cannot be completed within established time frames, funding will be reallocated to projects that are progressing and will be completed within the established time frames.
- Complete an annual house count survey of all VSW eligible communities to determine the number of eligible homes, number of served homes and number of unserved, to meet the requirement of Office of Management and Budget's (OMB's) Program Assessment and Rating Tool (PART).

EPA will:

- Notify DEC of the final amount available to the program as soon as the allocation amount is final. Federal grant awards will be awarded in accordance with Uniform Administrative Requirements for Federal Grants to States.

## **26. State and Federal Environmental and Health Agency Interface**

It has become evident that more frequent and scheduled interfacing on important health and environmental issues is needed. EPA Region 10, Agency for Toxic Substances and Disease Registry (ATSDR), Alaska Department of Environmental Conservation and the Alaska Department of Health and Social Services shall convene meetings during SFY2011 to address issues of mutual concern.

## **27. Economic Stimulus Issues**

Given the strict timelines, reporting requirements and funding constraints for the federal economic stimulus funding, DEC and EPA will need to devote additional energy towards coordination of efforts.

DEC will:

- Enter data in to the Clean Water National Information Management System (CWNIMS) and Drinking Water National Information Management System (DWNIMS) to meet the ARRA reporting requirements.
- Report quarterly on all of the data elements listed in Section 1512(c) of the ARRA, in a format consistent with the Office of Management and Budget's SF-Performance Progress Report (PPR)-Recovery form. In addition, report on additional program-specific data elements, such as the amount of funds passed through to other entities.

EPA will:

- Provide timely information on ARRA requirements for EPA-funded work affecting DEC's CWRP and DWRP programs.
- Provide technical assistance to DEC in its use of CWNIMS and DWNIMS as a management information system.
- Provide updated information on reporting requirements for the 604(b) program as available, including the electronic format to be used for the quarterly reporting.

## **28. Ambient Lead Monitoring**

Recent revisions to the ambient air quality standard for lead have resulted in new monitoring requirements and the potential for new EPA regulations to address lead emissions from piston-engine aircraft using leaded aviation gasoline. Given the significance of these aircraft to Alaska's transportation system, DEC and EPA will work cooperatively to identify opportunities for Alaska to provide input to EPA on this issue and to explore opportunities that would result in the development of the best possible data and information related to Alaska's use of leaded aviation gasoline in aircraft and potential impacts. This collaboration will help insure that Alaska's unique situation and concerns can be integrated into the EPA rulemaking process.



## **29. National Environmental Exchange Network**

EPA and ADEC will cooperate in the development of the National Environmental Information Exchange Network in Alaska. The exchange network grant program is eligible to be included in the State's Performance Partnership Grant [PPG]. EPA is committed to working with and providing resources to ADEC for the development of protocols necessary to expand the number of data flows to priority national data systems via the Exchange Network. ADEC's Air and Water programs will evaluate the feasibility of expanding data flows to the exchange network and will initiate modifications necessary to continue reporting data via the Exchange Network for data flows already in place.

## **30. Environmental Justice**

Environmental Justice is a cross-cutting program activity, supported at the Federal level by provisions of existing environmental laws, regulations and policies, Executive Order 12898 and related Executive Orders such as Tribal Consultation, Translation for Limited English speaking persons and others. Environmental Justice is one of EPA Administrator Jackson's seven priorities for EPA: Expanding the conversation on environmentalism and working for Environmental Justice. This priority covers enhancing outreach and environmental and public health protection for historically underrepresented people including vulnerable populations such as children, building strong working relationships with tribes and other communities and populations and including Environmental Justice principles in all EPA decisions.

In Alaska, Environmental Justice issues impact areas such as tribal relations and consultation, public involvement, climate change, water and air permitting of the extraction industries and others.

Region 10 EPA supports the development and effective implementation of state efforts to avoid, mitigate and otherwise resolve environmental justice (EJ) issues in states. In 2009 EPA awarded ADEC one of only five nationally competed State Environmental Justice Cooperative Agreements for their project developing a protocol for tribal participation in permitting decisions. The successful completion of this project potentially has broader beneficial impacts for other state agencies, programs and communities. In 2009, EPA and ADEC also partnered to provide four days of EJ training in three locations to ADEC staff. These workshops provided a first time opportunity to inform and engage ADEC staff and managers on the topic of EJ, provide an introduction to them of the goals of the State Environmental Justice Cooperative Agreement, and assess the state's need for further technical assistance and support on matters related to Environmental Justice. To further this work in the new PPA period,

EPA and DEC will:

- Continue to work together to ensure the successful completion of the ADEC State Environmental Justice Cooperative Agreement.
- Seek additional opportunities to bring basic and more advanced environmental justice training to ADEC staff and managers.

EPA will

- Share information as available and provide technical assistance on environmental justice matters as requested and required for the avoidance, mitigation and/or resolution of environmental justice issues in communities.
- Will provide trainers, materials and Alaska specific environmental justice expertise to ADEC as opportunities for additional training are identified for implementation.
- Continue to host monthly check-in calls with state environmental justice contacts

ADEC will

- Successfully conclude their State Environmental Justice Cooperative Agreement in the agreed project time and extend the benefits of that work to related state agencies as appropriate and possible.
- Will seek additional opportunities to extend environmental justice training to additional ADEC staff and managers.
- Will participate in monthly check-in calls with state environmental justice contacts.
- Continue to identify environmental justice related issues within and across the work of ADEC and take steps to address those issues as possible.

### **31. Title V Air Operating Permits**

DEC, through the Air Permits Program, is responsible for ensuring that air emissions from industrial operations in the state do not create unhealthy air. This is accomplished through a fee-based program for permitting actions and compliance assurance inspections. DEC will continue to implement a Title V air operating permit program in accordance with 40 CFR Part 70 and all other applicable requirements.

## **VI. Compliance and Enforcement**

EPA has primary compliance and enforcement responsibility for non-delegated federal environmental programs and in “Indian Country” in Alaska as defined in 18 U.S.C. Section 1151. DEC has primary compliance and enforcement responsibility for the state’s environmental laws and delegated federal environmental and public health protection programs. It is essential that EPA and DEC coordinate enforcement and compliance with each other.

The EPA and DEC will coordinate enforcement and compliance with each other in a manner consistent with the May 1997 Agreement on Compliance Assurance Principles and the March 1988 Compliance Assurance and Evaluation Principles agreed to by the EPA Region 10 States and the EPA. The EPA and DEC will provide required compliance and enforcement information to each other in an appropriate and timely manner. Current relevant documents include (1) DEC’s Enforcement Manual and (2) the Compliance Assurance Agreement between DEC’s Air Permits Program and the EPA Office of Air, and (3) the Compliance and Enforcement Strategy between DEC’s Drinking Water Program and EPA Region 10’s Office of Water and Watersheds Drinking Water Unit.

## **VII. Performance Reporting and Evaluation**

DEC and EPA will report on the activities identified in this agreement semi-annually. Reports will be based on information supporting performance measures and program activity measures identified in this agreement outlining accomplishment, existing or potential problems, and suggestions for improvement. The reports will be exchanged by February 15 and August 15 of 2011. The EPA will schedule a report preview meeting with DEC to discuss the report and make appropriate adjustments.

The EPA and DEC programs directors agree to meet in the Fall of 2010 to discuss strategic environmental and public health protection issues in Alaska. Information from this discussion will be used by each agency when developing subsequent strategies and budgets.

## **VIII. Dispute Resolution**

Parties to this agreement realize there may be different expectations and understandings of the terms of this agreement by each party from time-to-time. Resolving those differences early will keep each party focused on the intent of the agreement and avoid difficult, time-consuming situations that disrupt healthy working relationships necessary to achieve mutual success.

The EPA and DEC agree to work issues at the lowest level possible, making reasonable efforts to clarify expectations and understandings. If those responsible for implementing activities and achieving expected performance are not able to resolve disagreements that prevent accomplishments mutually, they are authorized to elevate the matter to the next higher level of responsibility. They will notify their supervisor of this action and schedule a discussion among supervisors and affected staffs. This elevation process will continue up to the program director level. If a matter is not resolved before reaching the program director level, program directors will notify the agency head that they are engaged in resolving a conflict. Most issues will be resolved either before reaching this level or at the conclusions of the director elevation. However, significant issues may remain and will be addressed between the agency heads.